IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.14 OF 2007

Kashinath Fula Pawar & Ors. ..Applicants.

V/s.

Special Land Acquisition Officer
No.2 Nashik & Ors. ..Respondents.

WITH

CIVIL REVISION APPLICATION NO.15 OF 2007

Govind Fula Pawar & Ors. ..Applicants.

V/s.

Special Land Acquisition Officer
No.2 Nashik & Ors. ..Respondents.

Mr.Kishor Patil i/b P.N.Joshi for applicants.

CORAM: A.M.KHANWILKAR,J

DATE : JANUARY 18, 2007.

P.C. :

1. Heard counsel for the applicants.

2. This revision application takes exception to the order passed by the SLAO-2 Nashik dated 16th October, 2006 rejecting the application preferred by the applicants under section 18 of the Land Acquisition Act for making reference for enhancement of the compensation. Although the authority has not clearly recorded the reason for concluding as to how

the applications were barred by limitation; having regard to the averments in the applications preferred by the applicants the same is obviously barred by limitation. For this reason, we will straightaway advert to the averments in the applications filed by the applicants; in paragraph-5 of the said application on the issue of limitation, the case made out by the applicant reads thus:

> "5. LIMITATION: It is pertinent to note that the award was declared on 7-4-2002 but the notice u/s 12(2) was issued to claimants on 8-12-2005 deliberately after 3 years of award. The notice u/s 12(2) of L.A.Act 1894 was served on 8-12-2005 claimants were appeared before SLAO as per the direction in the notice. But on that day amount of compensation was not paid as one of the claimants. Kashinath Fula Pawar was dead and to that effect the succession certificate was asked by the S.L.A.O. The succession Certificate was asked by the S.L.A.O. The Succession Certificate was obtained on 23-3-2006 and the amount of compensation was paid on 4.4.2006. Hence the reference is filed within the period of limitation. If there is any delay caused for filing the reference said delay may be condoned to meet the ends of justice in this particular case."

Indeed, the positive case of the applicants in CRA No.14 of 2007 is that his predecessor in title Kashinath Fula Pawar died on 30th December, 1984, much before the initiation of acquisition proceedings. However, from the averments in the application, it is amply clear that the applicants

accept the position that they became aware of the passing of the award dated 7th April, 2002 atleast on 8th December, 2005 upon service of notice under section 12(2) of the Act. They accept that in response of that notice, they appeared before the SLAO. The question is: whether the claimants inspite of the knowledge of the award and service of notice albeit addressed to their predecessor in title, who incidentally was dead long back, can sleep over the matter and contend that the limitation for filing application under section 18 of the Act will not start running against them. In my opinion, on the averments in paragraph-5 of the applications as filed by the applicants, it is admitted by the applicants that they had knowledge about the award having been passed in respect of the suit land on 8th December, 2005. If it is so, it was obligatory for the applicants to take out applications under section 18 within specified period, lest it would be barred by limitation. However, the applicants have chosen to file present applications only on 6th July, 2006, which was beyond the specified period from the date of knowledge of the award, which was acquired on 8th December, 2005. Thus understood, no fault can be found with the order of the authority rejecting reference filed by the applicants being barred by

limitation.

3. To get over this position, counsel for the applicants however, rely on the decision of the Apex Court in the case of **Orissa Industrial Infrastructure Development Corpn. V/s.Supai Munda & Ors.(2004(1) BCJ 364)**. The observations in the said decision are in the context of the fact situation of that case. In that case, it was held that the respondent had no knowledge about the service of notice under section 12(2) of the Act though the same was received by some one known to him. The Court has also accepted the stand of the respondent therein that he was an illiterate person and was not in a position to put his signature, as was appearing in the notice under section 12(2) of the Act purportedly served on the said respondent. In the present case, however, the applicants have admitted in the applications that they acquired knowledge about the award passed in respect of the suit lands on 8th December, 2005. Once that knowledge was acquired, the limitation for filing applications under section 18 would start running against the applicants. However, the applicants have chosen to file the applications under section 18 only on 8th July, 2006, which were

obviously barred by limitation. Hence, no interference is warranted. Hence, both the applications are dismissed.